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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,249	08/22/2001	John M. Baron	10010911	9746

22879 7590 05/25/2004

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

CHOW, DOON Y

ART UNIT	PAPER NUMBER
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2675

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,249

Applicant(s)

BARON ET AL.

Examiner

Dennis-Doon Chow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (6567101) in view of Silverbrook et al. (6405055).

Thomas discloses an electronic device such as a wireless phone (col. 1, lines 15-17) comprising: a three-axis acceleration sensor for detecting an acceleration (col. 4, lines 39-46) motion of the device and generating an acceleration signal, wherein the acceleration motion includes a vertical and horizontal pivoting motion, and a horizontal rolling motion; a display for displaying graphical image; and a processor for receiving the acceleration signal and moving a graphical selection indicator based the acceleration signal.

Thomas does not disclose the electronic device being an image capturing device.

Silverbrook discloses an electronic device such as a wireless phone comprising a camera for capturing image information (col. 2, lines 66-67).

In light of Silverbrook, it would have been obvious to one ordinary skill in the art to use Silverbrook's camera in Thomas' wireless phone because of the same purpose as Silverbrook uses in the his/her invention, which is for capturing image information.

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3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feinstein (6466198) in view of Thomas and Silverbrook et al.

Feinstein discloses an electronic device such as a wireless phone (col. 1, lines 23-26) comprising: a three-axis acceleration sensor for detecting an acceleration motion of the device and generating an acceleration signal, wherein the acceleration motion includes a vertical and horizontal pivoting motion, and a horizontal rolling motion; a display for displaying graphical image; a processor for receiving the acceleration signal and moving the graphical image based the acceleration signal; an enabling means for enabling and disabling the movement of the image; and means for using a predetermined threshold for controlling the image movement in the display device.(col. 9, lines 15-22).

Feinstein discloses moving the graphical image, but not the graphical selection indicator, in response to the acceleration signal.

Thomas, in the same electronic field, discloses an electronic device comprising generating means for generating an acceleration signal, and moving means for moving a graphical image (e.g. text image) and a graphical selection indicator (cursor) in response to the acceleration signal.

In light of Thomas, it would have been obvious to one ordinary skill in the art use Thomas' moving means for moving a graphical selection indicator in Feinstein's device. This would have been obvious because Thomas teaches that the moving means for moving the graphical image can be used for moving the graphical selection indicator.

The modified Feinstein does not disclose the electronic device being an image capturing device.

Silverbrook discloses an electronic device such as a wireless phone comprising a camera for capturing image information (col. 2, lines 66-67).

In light of Silverbrook, it would have been obvious to one ordinary skill in the art to use Silverbrook's camera in the wireless phone of the modified Feinstein because of the same purpose as Silverbrook uses in the his/her invention, which is for capturing image information.

Response to Arguments

4. Applicant's arguments filed March 8, 2004 have been fully considered but they are not persuasive.

Applicant argues that Thomas does not disclose or suggest a display that includes a graphical selection indicator that is capable of being moved in the display, to select from among a plurality of displayed icons where a signal from an acceleration sensor is used to move the graphical selection indicator in the display. The examiner disagrees with applicant's arguments. Thomas teaches an organizer, an electronic book, or the like (col. 1, lines 14-18) inherently comprising a graphical user interface which displays a plurality of icons. Thomas further teaches a known mouse (col. 1, lines 28-29). The mouse is known to use for moving a graphical selection indicator (cursor) on a display to select an icon image. Thomas further teaches using a plurality of acceleration sensors, instead of the known mouse, for moving the graphical selection

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indicator on the display. With these teachings, it is clear that Thomas suggests the above claimed features.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis-Doon Chow whose telephone number is 703-305-4398. The examiner can normally be reached on 8:30-6:00, Alternate Monday off.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

D. Chow
May 21, 2004



DENNIS-DOON CHOW
PRIMARY EXAMINER